

**COURT OF APPEALS  
DECISION  
DATED AND RELEASED**

**APRIL 2, 1996**

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62(1), STATS.

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 95-3339

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT III**

**COUNTY OF EAU CLAIRE,**

**Plaintiff-Respondent,**

**v.**

**FRITZ ALBERT MEILI,**

**Defendant-Appellant.**

APPEAL from a judgment of the circuit court for Eau Claire County: GREGORY A. PETERSON, Judge. *Affirmed.*

CANE, P.J. Fritz Meili appeals his conviction for operating a vehicle at forty-eight miles per hour on a road with a posted speed limit of thirty-five miles per hour, a county forfeiture. The arresting officer used a radar device to measure Meili's speed and testified that he had used a tuning fork to test the radar unit's accuracy. However, he had no idea if the tuning fork used for the testing was itself accurate. Meili's sole contention on appeal is that because there was no showing that the tuning fork used to test the radar unit's accuracy was itself accurate and reliable, it was error to admit the radar's evidence of speeding. This court rejects this contention and affirms the conviction.

The supreme court in *State v. Hanson*, 85 Wis.2d 233, 245, 270 N.W.2d 212, 218-19 (1978), held that a rebuttable presumption of the accuracy of moving radar, capable of supporting a speeding conviction, exists upon testimony by a competent operating police officer as follows:

1. The officer operating the device has adequate training and experience in its operation.
2. That the radar device was in proper working condition at the time of the arrest. This will be established by proof that suggested methods of testing the proper functioning of the device were followed.
3. That the device was used in an area where road conditions are such that there is a minimum possibility of distortion.
4. That the input speed of the patrol car must be verified, this being especially important where there is a reasonable dispute that road conditions may have distorted the accuracy of the reading (*i.e.*, presence of large trucks, congested traffic and the roadside being heavily covered with trees and signs.)
5. That the speedometer should be expertly tested within a reasonable proximity following the arrest and that such testing be done by means which do not rely on the radar device's own internal calibrations.

In *State v. Kramer*, 99 Wis.2d 700, 703-04, 299 N.W.2d 882, 884 (1981), the supreme court rejected an argument identical to Meile's argument when it specifically held that:

To require proof of accuracy of a tuning fork by still some other testing device would create a sequence of tests to verify tests which raises the same proof problem at each level. There must be a point in the sequence at which the accuracy of a test device is accepted. The

presumption of accuracy which *Hanson* accords radar speed detection devices does not require proof of the accuracy of a tuning fork used to test them.

*Id.* at 706, 299 N.W.2d at 885-86.

Here, Meili's only contention is that because the arresting officer had no idea when or even if the tuning forks had been recently tested for accuracy, the radar evidence is inadmissible. Because there is no such requirement for proof of testing the tuning fork's accuracy, the contention is rejected and the conviction is therefore affirmed.

*By the Court.* – Judgment affirmed.

This opinion will not be published. RULE 809.23(1)(b)4, STATS.